ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Connecticut Department of Public Utility Control Petition for Rulemaking to Amend the Commission's Rules Prohibiting Technology-Specific or Service-Specific Area Code Overlays	)	RM No. 9258
Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes	)	NSD File No. L-99-17
California Public Utilities Commission and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code	)	NSD File No. L-99-36

COMMENTS OF RCN TELECOM SERVICES, INC.

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SUMMARY

RCN commends the Commission for recognizing the importance of allocating telephone numbering resources efficiently and in a competitively-neutral manner. The FCC must proceed cautiously in this area to ensure that any numbering conservation tools it adopts are (1) reasonably expected to slow number exhaust without unduly burdening service providers, particularly new entrants; and (2) competitively-neutral such that new entrants are not disproportionately or unfairly impacted by such measures.

Rather than restricting access to numbers, increasing the efficiency with which allocated numbers are used is more likely to achieve the Commission's goal of slowing number exhaust. RCN opposes basing allocations of new codes on showings of readiness or need because such measures disproportionately impact new entrants and are unlikely to significantly slow number exhaust. The proposal to use reclamation as a number conservation tool is similarly flawed. RCN strongly disagrees with the proposal to reduce the amount of time for initial code reservations. The proposed timeframes do not account for the numerous uncertainties new entrants confront when planning an initial rollout and would unreasonably restrict new entrants' ability to enter the marketplace.

In contrast to the above-mentioned number conservation tools, rate center consolidation is a valuable means of numbering optimization, provided that carriers bear their own associated costs. While the benefits of rate center consolidation are clear, RCN is concerned that the costs are not readily apparent or identifiable. Thus, RCN requests the FCC to specify that carriers will be responsible for bearing their own costs of compliance. With respect to thousands-block pooling, RCN believes that numerous safeguards are needed to ensure that this tool would be

competitively-neutral with respect to function and to cost. Thus, RCN asks the FCC to proceed extremely cautiously with respect to this proposal. RCN strongly opposes market-based methods of allocating numbering resources because of the inherent advantage larger, well-capitalized service providers would have over smaller, new entrants.

With respect to administration, in order for the FCC's number conservation measures to be consistently and effectively administered, it is essential that all users provide reasonable utilization data and forecast information to a single entity. RCN supports designating NANPA as the national-level single point of contact, for data collection, audit authority, and enforcement. This will ensure that the FCC's numbering conservation measures are effectively implemented and consistently administered, while facilitating meaningful number conservation. Because of NANPA's role in number allocation and assignment, it has great experience and expertise with these issues on a day-to-day basis and is well-qualified to perform these functions. RCN, however, opposes the FCC's proposal to require carriers to submit reports on a quarterly, instead of annual, basis because of the significant burden associated and the uncertainty associated with corresponding benefit of doing so.

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COMMENTS OF RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc. ("RCN"), by its undersigned counsel, hereby files its Comments regarding the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding.[1] RCN commends the FCC for recognizing the importance of allocating telephone numbering resources efficiently and in a competitively neutral manner. As expressed by RCN in previous pleadings, numbers need to remain accessible to all carriers seeking to enter the local exchange market if facilities-based competition is to take root throughout the market. Thus, the Commission must proceed cautiously in this area to assess the

[1] *Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, rel. June 2, 1999 ("NPRM").

benefits to be obtained by the various number conservation proposals outlined in the NPRM, while also weighing the corresponding economic and administrative burdens those proposals may impose, particularly on new market entrants.

I. ADMINISTRATIVE NUMBER OPTIMIZATION MEASURES

A. The FCC Should Not Base Allocation of New Codes on Showings of Readiness or Need Because Such Measures Disproportionately Impact New Entrants and Are Unlikely to Significantly Slow Number Exhaust.

The NPRM proposes measures to prevent carriers from hoarding codes they do not need and obtaining codes they are not ready to use.[2] RCN opposes the implementation of detailed showings of need or additional application requirements in order to obtain NXX codes because such measures impose significant administrative burdens on carriers and the North American Numbering Plan Administrator ("NANPA"), without yielding a corresponding long-term benefit towards number conservation. Adopting stringent criteria for assignment of initial codes disproportionately affects new market entrants because they are the overwhelming majority of entities applying for such codes at this time. Consequently, any proposed restrictions would have to be painstakingly crafted to have a truly competitively neutral impact on the industry and not unduly hinder new carriers' entry to market. RCN questions the long-term benefits to be achieved by restricting access to initial codes because current guidelines already allow for the return of unused initial codes. Thus, tightening the standards for issuance of these codes would only impact number utilization on a temporary basis and is unlikely to significantly slow number exhaust. RCN believes a more efficient allocation of carrier and NANPA resources would be achieved by concentrating efforts toward other measures identified in the NPRM that are more likely to have a greater overall impact on number conservation.

[2] NPRM, ¶ 57.

RCN also urges the Commission to recognize the serious competitive drawbacks associated with tying issuance of initial codes to a carrier's satisfaction of utilization thresholds in other areas where it is providing service. RCN strongly opposes basing issuance of initial codes on such criteria because it has the effect of "land-locking" new entrants by precluding them from serving customers in new areas. This would have a devastating impact on new entrants while conferring an enormous and virtually insurmountable competitive advantage on incumbent local exchange carriers ("ILECs"). Accordingly, the Commission must decline to adopt such a measure because of its serious competitive impact.

Further, other issues relating to the local exchange marketplace render imposition of utilization thresholds particularly detrimental to new entrants. In fact, in the past a monopoly provider would request a new NXX code for a large cluster of customers or even a single customer in a given rate center, thus creating the artificial need for a new NXX. In addition, because of ILECs' long-standing monopoly, they have several thousand customers in one rate center and have achieved critical customer mass to gain efficiencies for NXX utilization. By contrast, a start-up CLEC would need to serve multiple rate centers in order to gain efficiencies and critical customer mass in a switch, forcing the CLEC to establish at least one NXX for initial service in a rate center. Moreover, competitive local exchange carriers' ("CLECs'") network architecture is designed to serve multiple rate centers in an effort to achieve greater efficiencies than their ILEC counterparts. In light of the competitive hurdles that CLECs must overcome and their efforts to achieve greater efficiencies, initial ILEC-held NXX codes should be examined thoroughly before any CLEC NXX codes are reviewed.

As with initial codes, restricting access to growth codes by establishing utilization thresholds is also likely to have a disproportionate impact on new market entrants. Given an ILEC's established customer base and mature NXX codes, an ILEC will generally have greater

utilization rates than its new competitors.[3] As the Commission recognizes, "[i]mposing the same utilization requirements on carriers with a small market presence as on those with a much larger presence may discourage market entry and competition, as well as diminish a smaller or newer carrier's ability to react to market demands."[4] Given these competitive considerations, RCN believes it would be extremely difficult to develop utilization thresholds that have an even-handed impact on ILECs and new entrants, and therefore discourages the Commission from adopting this alternative.[5] Notwithstanding the above, if the Commission were to conclude to establish utilization thresholds as a means of restricting access to growth codes, RCN submits that, at a minimum, the Commission must reduce those thresholds for new market entrants to ensure they have a competitively-neutral impact on the industry.

The current numbering problem will not be fully resolved by restricting access to NXX codes and making it more difficult for carriers to obtain numbers. Number conservation can only reasonably occur by increasing the efficiency with which allocated numbers are used. Thus, RCN believes measures which promote efficient use will more readily achieve the Commission's goals of slowing the rate of number exhaust and prolonging the life of the North American Numbering Plan ("NANP").

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[3] "In most cases, newly acquired and activated NXX codes will have lower utilization rates than older, more 'mature' NXX's." NPRM, ¶ 65.

[4] *Id.*, ¶ 68.

[5] The NPRM also identifies a myriad of other important factors that would impact the development and implementation of utilization thresholds: whether the utilization rate would be established on a national level or would be a range within which state commissions would establish; how utilization levels would be defined and calculated; how newly assigned NXX codes would be treated for utilization rate purposes; whether utilization levels would be calculated on an NPA-wide or a rate center-wide basis; and how regional variances in number utilization patterns should be considered. NPRM, ¶¶ 63-67. These considerations further support RCN's evaluation regarding the complexity of establishing competitively-neutral utilization thresholds.

B. Detailed Reports Should be Submitted to NANPA on an Annual Basis.

While noting the importance of timely data regarding number usage and forecasted demand, the NPRM observes several shortcomings in the current mechanism for data collection, the Central Office Code Utilization Survey ("COCUS").[6] RCN agrees that accurate data is needed to maximize the benefits of other number conservation measures.[7] Accordingly, RCN supports the FCC's tentative conclusion that all users of numbering resources be required to supply reasonable forecast and utilization data. Further, RCN believes that NANPA, rather than the states and the FCC, should serve as the single point of collection for telephone number usage and forecast data. In order for number conservation measures to be consistently and effectively administered, it is essential that all users provide reasonable utilization data and forecast information to a single entity.

RCN, however, opposes the proposal to require carriers to submit reports on a quarterly, instead of annual, basis.[8] The administrative burden on the carrier associated with these reports is substantial, as is the corresponding burden on NANPA to review and evaluate these reports. RCN questions whether many smaller new entrants have the personnel resources necessary to prepare quarterly reports, nor is it likely that NANPA would have adequate time to analyze and respond to reports submitted on a quarterly basis, particularly if the reports become more numerous, detailed and complex as a result of this NPRM. Therefore, the benefit of providing more than an annual report is *de minimis* and the corresponding burden of producing additional reports unreasonable. A more efficient use of resources would result by combining annual reporting with the ability of NANPA to audit users *for cause* only if their annual report is

[6] *Id.*, ¶¶ 70-71.

[7] *Id.*, ¶ 73.

[8] *Id.*, ¶ 77.

inadequate or suspect. This allows NANPA the flexibility to obtain additional information when needed, yet relieves NANPA and numbering resource users of the burdens associated with quarterly filings.

Because of the particular burdens that new entrants face, new entrants should be exempt from filing detailed reports regarding NXX utilization for a period of three (3) years from market entry. A new entrant faces tremendous challenges and obstacles in its effort to attract a meaningful customer base in a given rate center, and does not have resources for such audits. Accordingly, the FCC should adopt an exemption period for new entrants to relieve them of the substantial administrative burdens of these filings.

RCN shares the confidentiality concerns voiced by other entities with respect to utilization data.[9] RCN requests NANPA to protect the confidentiality of the information it submits, yet fears that the Freedom of Information Act will permit disclosure of sensitive information to the public.[10] Accordingly, RCN supports NANC's determination that carrier-specific data need only be disclosed to states where a legally enforceable confidentiality agreement is in place. Such information typically consists of trade secrets, confidential, competitively sensitive, and other proprietary information and disclosure would have a serious adverse impact on the carrier. New entrants, in particular, cannot afford to have their business plan bared to competitors that might exercise much greater market power or have significant resources to counteract their efforts. For example, information relating to utilization of NXX codes provides competitors with insight into a carrier's level of activity to date, its geographic location of interest, its network status, and its operational plans in various portions of the pertinent local exchange market. If this information were made publicly available, it could be

[9] *Id.*, ¶ 78.

[10] *See* 5 U.S.C. § 552(b)(4) (1999).

used by competitors to target a carrier's customers and undermine a carrier's strategies for prospective market entry. Accordingly, the only responsible approach to handling this sensitive data is to protect its confidentiality.

C. A Single Entity Should be Empowered to Verify the Validity and Accuracy of Utilization Data Through Use of Audits on a "For-Cause" Basis.

While RCN agrees with the FCC's observation that the only comprehensive method for verifying the validity and accuracy of annual utilization data submitted by users of numbering resources is through the use of audits,[11] RCN opposes employing multiple types of audits: "for cause" audits are the only reasonable approach. RCN understands that "for cause" audits would be conducted if there is reason to believe a carrier has provided inaccurate or misleading information in either its reports or applications for additional resources.[12] Given the broad scope of "for cause" audits, RCN questions the need for audits on a regularly-scheduled basis or at random, particularly in light of the burden these audits would create for carriers. "For-cause" audits will sufficiently address any irregularities or inadequacies in carrier reporting and requests for additional resources, while simultaneously providing a necessary policing function necessary to deter unscrupulous and irresponsible carriers from submitting dubious information. It is simply unnecessary to subject carriers and NANPA to the time and expense of regularly-scheduled and random audits when the specter of "for-cause" audits is present.

With respect to audit responsibility, RCN agrees that numbering resource audits should be conducted by a neutral entity.[13] In the interest of uniformity, RCN believes that a single entity with a national scope should be charged with audit responsibility. RCN believes the interest in

[11] NPRM, ¶ 83.

[12] *Id.*

[13] *Id.*, ¶ 88.

uniform application of those procedures outweighs the interest in delegating such responsibility to individual state commissions.

D. Because Number Conservation Is a National Issue in Which NANPA Is Most Directly Involved, Enforcement Power Should Be Delegated to NANPA.

The NPRM correctly asserts that an appropriate enforcement mechanism is necessary to ensure compliance on the part of all numbering resource users.[14] RCN agrees with other commenters who observe that, because of NANPA's unique function, NANPA will be the first entity to detect a carrier's violation of a rule or guideline and, therefore, is in the best position to take expeditious enforcement action.[15] RCN opposes delegating such authority to state commissions because of the need for consistency and uniformity in this area. The administrative burden associated with preparing multiple state-level reports and conforming them to individual state specifications is staggering. While states are certainly interested in number conservation, competing considerations exist at the state level which may deviate from national number conservation policy objectives. For example, states may be under pressure to complete area code relief expeditiously where optimal numbering policy would dictate a different solution. In order to initiate a successful number conservation movement on a national level, enforcement must be conducted in an even-handed manner in accordance with national policy objectives. This is most readily achieved by a single entity acting as enforcer, not a multitude of state commissions. Because of NANPA's role in number allocation and assignment, it has greater experience and expertise with these issues on a day-to-day basis than the FCC. Further, by delegating enforcement authority to NANPA, the FCC would be able to conserve scarce administrative and economic resources. Additionally, any state numbering reporting requirements would be

[14] *Id.*, ¶ 91.

[15] *Id.*, ¶ 92.

rendered unnecessary and could be eliminated under this scheme. Accordingly, RCN supports delegating enforcement authority to NANPA.

E. The FCC Must Act Cautiously with Respect to Number Reclamation Timetables to Avoid Unduly Harming New Market Entrants.

While reclamation and reuse of unused NXX blocks may be one of the "quickest and easiest" means of numbering optimization,[16] this is a case where the "quick and easy" solution is also the wrong one. RCN urges the FCC to proceed cautiously with respect to reclamation timetables to avoid adversely affecting new market entrants. RCN vehemently objects to the proposals (1) to reduce the amount of time for initial code reservations from 18 months to 3 months; and (2) to reduce the amount of time of potential extension of that reservation from 6 months to 30 days.[17] Under these stringent timetables, carriers only have a maximum 60-day margin of error with respect to obtaining initial NXX codes. Because of the numerous uncertainties new entrants confront when planning an initial rollout, it is simply unrealistic to expect new entrants to be able to predict their need for initial NXX codes with the degree of precision required by the NPRM proposals. Under these proposals, any delay in deployment would likely result in a carrier having its initial NXX codes reclaimed and being forced to re-apply. Not only do these proposals impermissibly disproportionately impact new entrants and result in duplicative administrative work, but they unduly hinder new entrants' ability to enter the competitive marketplace. Most significantly, this may interfere with a carrier's ability to attract and retain customers by limiting a carrier's ability to provide marketable service due to a lack of numbers.

[16] *Id.*, ¶ 95.

[17] *Id.*, ¶ 99.

As RCN has previously stated, preventing or restricting access to NXX codes will not resolve the current number shortage on a long-term basis. It is inappropriate to penalize new entrants for the current number shortage by limiting their access to NXX codes. Rather than making it increasingly difficult for new entrants to obtain and keep NXX codes by shortening the above-referenced timetables, it is more appropriate for the FCC to ensure that allocated NXX codes are used in an efficient manner through implementation of numbering optimization solutions such as rate center consolidation and number pooling.

F. All Cost Recovery Must Be Performed on a Competitively-Neutral Basis.

RCN supports the FCC's tentative conclusion that section 251(e)(2) requires that the costs of the administrative solutions to number optimization be born by telecommunications carriers on a competitively neutral basis.[18] The NANPA fund formula is competitively neutral and does not appear to significantly affect any carrier's ability to compete with other carriers for customers in the marketplace. RCN asks, however, that NANPA and the FCC continue to monitor this cost allocation method to ensure that it remains competitively neutral in the future, as additional numbering optimization methods are implemented and additional competitors brought to market.

II. OTHER NUMBERING OPTIMIZATION SOLUTIONS

A. Rate Center Consolidation Is a Valuable Means of Numbering Optimization, Provided that Carriers Bear Their Own Associated Costs.

RCN concurs with the Commission's observation that rate center consolidation ("RCC") can and should play an important role in responding to the increased demand for, and apparent shortage of, NXX codes in Numbering Plan Areas ("NPAs").[19] Merging two or more distinct

[18] *Id.*, ¶ 104.

[19] *Id.*, ¶ 106.

rate centers into a single rate center could provide competitive local exchange carriers ("CLECs") that have been required previously to obtain a new NXX code every time they seek to expand the geographical scope of their business with better and more competitively neutral access to NXX codes and telephone numbers going forward. Furthermore, as the report submitted by the North American Numbering Council on October 21, 1998 ("NANC Report") accurately notes, "RCC can be used as an NXX optimization measure to delay the exhaust of NPAs and future jeopardy situations."[20] Thus, RCC could serve the dual purposes of opening new areas in each NPA to the benefits of competitive entry, and maximizing the "fill" of each NXX code.

RCN notes, however, that although the benefits of RCC are relatively clear, the costs of RCC are not as readily apparent or identifiable. Thus, RCN believes it is important to establish that carriers would be responsible to bear only their own costs associated with RCC. The NANC Report itself indicates that the lingering questions surrounding RCC can only be answered through a case-by-case analysis. Specifically, the NANC Report states that "the cost of RCC is subject to a number of variables unique to each geographical area and service provider."[21] Although the NANC submitted questionnaires seeking to capture implementation cost information from carriers and consumers, it admits that "[i]t has been difficult to identify an overall cost that is applicable to all areas."[22] As the FCC recognizes, "a complex consolidation scheme may involve expensive modifications to carriers' switches and operations support systems."[23] Accordingly, RCN supports RCC to the extent that carriers are only required to bear

[20] *Report*, § 1.5.1.

[21] *Report*, § 1.4.

[22] *Id.*

[23] NPRM, ¶ 114.

their own costs of compliance. This is the most logical and equitable method to ensure that costs are born in a competitively-neutral manner.

B. The Disruption and Inconvenience Caused by Ten-Digit Dialing and D-Digit Expansion Make Them Undesirable Methods of Number Conservation.

RCN strongly opposes other non-local number portability ("LNP") dependent methods of number conservation, such as mandatory ten-digit dialing and d-digit expansion, because of the disruption and inconvenience these alternatives cause to customers and the costs these measures impose on the industry.[24] There are also concerns regarding whether these measures are truly competitively neutral. For example, when ten-digit dialing is imposed in conjunction with an area code overlay, the ILEC typically retains more of the much-desired NXX codes associated with the old NPA than any of its competitors. Because of the drawbacks associated with these measures, RCN suggests that they only be adopted as a "last resort," when no other viable alternative exists to conserve numbering resources.

C. Before the FCC Considers Thousands Block Pooling, Safeguards Are Necessary to Ensure that Thousands-Number Pooling Functions in a Competitively-Neutral Manner.

As the NANC Report noted, more efficient distribution of numbers could lead to less frequent NPA exhaust situations and could help ensure that new entrants have access to a broader base of numbering resources.[25] However, to ensure that number pooling achieves the intended results, the FCC must be extremely cautious in adopting rules for implementation.

As the FCC observes, thousands-number pooling is dependent upon LNP[26] and any rollout schedule of thousands-number pooling must recognize the intertwining of these

[24] *See, e.g.,* NPRM ¶ 128.

[25] *Report,* § 5.5.1.

[26] NPRM, ¶ 143.

functionalities. Not all outstanding issues have been resolved, nor have they all been identified. In fact, a question remains with local calling between two (2) LATAs (interLATA EAS), and whether thousands-block pooling would be operational in this instance. This is just one issue that needs to be addressed; there are others. Until all issues are resolved and LNP is widely available for all carriers, including commercial mobile radio service ("CMRS") providers,[27] thousands-number pooling will be limited in application and effectiveness in slowing number exhaust. RCN believes that this technical limitation allows valuable time for the FCC, NANPA and carriers to ensure that the procedures and costs associated with thousands-number pooling are administered in a competitively-neutral manner.

The FCC must ensure that the method by which carriers are required to participate and contribute numbers to the pool is competitively neutral. For example, the NANC Report sets the block contamination rule at 10%, which, as observed by other commenters,[28] could limit significantly ILECs' obligation to contribute to the pool.[29] At this low contamination level, ILECs, as the entrenched monopoly carriers, would not be required to contribute (at least in terms of proportion) as many blocks to the pool, because the vast majority of their blocks would most likely be more than 10% contaminated. More importantly, however, the 10% contamination level would limit significantly the total contribution to the pool, thereby reducing the positive benefits of number pooling.[30] It is also important to ensure that new entrants are not forced to cede numbers for which they have a demonstrated need. Because many CLECs will

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[27] *Id.*, ¶ 160.

[28] *Id.*, ¶ 188.

[29] *Report*, § 5.7.3.

[30] *See Minority Opinion of MCI WorldCom and Ad Hoc on 1000 Block Pooling.*

have just entered the market, they will need a larger pool of new numbers than the ILECs to ensure that they can satisfy every new service request.

To compensate for this inequity, entities have suggested increasing the contamination level applicable to ILECs to 25%, for example, while maintaining a CLEC contamination rate of 10%.[31] RCN supports this method which ensures both classes of carriers are impacted by this number conservation tool while still allowing for competitive growth. Additionally, another means of ensuring that neither ILECs nor CLECs are disparately treated would be to require surrender by an ILEC of a thousands-number block for every thousands-number block surrendered by a CLEC. Both of these alternatives minimize the ILECs' long-standing competitive advantage and assist in ensuring that CLECs are not disparately treated through disproportionate surrendering of thousands-number blocks.

The NPRM notes that there are several outstanding issues with respect to apportioning and recovering the costs associated with number pooling. The NANC Report does not ascertain the costs for implementing number pooling, nor does it explain how those costs would be allocated and recovered. Instead, as in estimating the costs for RCC, the NANC Report only states that the costs of thousands-block number pooling are subject to many variables.[32] Indeed, as the Commission and the industry have found with number portability, number pooling is likely to be quite expensive. The same administrator that is implementing number portability will also be in charge of number pooling. Because of the likely expense and the limited amount of numbers that will be in the pool, the FCC should direct that a cost benefit analysis be performed each time pooling is under consideration to determine how many numbers will be saved and whether the amount of numbers saved would be worth the expense. RCN agrees with

[31] NPRM, ¶ 189.

[32] *Report*, § 5.4.

the FCC's tentative conclusion that costs must be assessed on a competitively-neutral basis.[33] New entrants should not be required to bear the cost burden for number pooling. As everyone benefits from a pooling process, all participants should bear a proportionate share of paying for this number conservation alternative, just as carriers currently support the availability of number portability. RCN is in accord with the Commission's tentative conclusion on carrier-specific costs directly related to thousands-block pooling -- carriers should bear and recover their own carrier-specific costs directly related to thousands-block pooling.[34] This is the most equitable manner to ensure that costs are born in a competitively-neutral manner.

III. PRICING OPTIONS ARE NOT A VIABLE MEANS OF CONSERVING NUMBERING RESOURCES

RCN strongly opposes the FCC's proposal to require carriers to pay for the numbering resources they request or receive as a means of supplementing or supplanting other number optimization methods.[35] Such a market-based approach inherently and impermissibly favors ILECs over new entrants, and larger, well-capitalized service providers over smaller ones. Significantly, this approach can be improperly used as a means to restrict competitors' entry to the marketplace. Both of these concerns are heightened in NPAs that are in jeopardy, where a bidding war is all the more likely to occur. In light of these serious flaws, RCN believes that the other number optimization methods discussed in the NPRM are preferable to this approach which emphasizes the disparity between ILECs and new entrants and may encourage anti-competitive conduct.

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[33] NPRM, ¶ 195.

[34] *Id.*, ¶ 203.

[35] *Id.*, ¶ 225.

IV. AREA CODE RELIEF

With respect to area code relief, RCN favors geographic splits over all-services overlays. A geographic split is competitively neutral, offers the benefits of increased competition to consumers, and avoids the need for burdensome regulatory considerations such as 10-digit dialing. An overlay plan, on the other hand, imposes anticompetitive conditions on the local market and regulatory costs on consumers. For example, when permanent number portability is coordinated with an overlay, the ILEC will naturally retain more of the much-desired NXX codes and telephone numbers in the old NPA than any of its competitors. Accordingly, RCN requests the FCC to promote geographic splits to accomplish area code relief and to ensure that area code relief measures implemented by the states are indeed do not unfairly disadvantage any class of telecommunications carriers.

V. CONCLUSION

RCN urges the Commission to concentrate its number optimization efforts on those measures which are most likely to conserve the greatest amount of numbers while having a competitively-neutral impact on the industry. Rather than adopting administrative measures which restrict carriers' access to numbering resources and have little impact on numbering conservation, the FCC should focus on long-term solutions which promote efficient use of allocated numbering resources. These long-term alternatives must be carefully developed and implemented to ensure that they do not impede new entrants' ability to compete in the marketplace. Finally, RCN believes a coordinated effort on a national level headed by NANPA

is essential to achieving the FCC's goals of slowing number exhaust and preserving the life of the NANP.

Respectfully submitted,

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